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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 22

Application Number: 09/317,110
Filing Date: May 24, 1999
Appellant(s): WHITE, PHILLIP

RICHARD A. NEIFELD
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/03/2001.

(1) **Real Party in Interest** 5,606,246

PAIKOMIGKI

A statement identifying the real party in interest is contained in the brief.

[illegible][illegible]

— *Journal of the American Medical Association*, 1934, 102, 1031.

Page 1, Line 10:

for the first time (1990) in the "Yellow Sea" (Figure 1, Table 10):

Figure 1

[illegible]

ef is correct. $\frac{1}{2} \times 100 = 50$ and $50 \times 2 = 100$.

[illegible]

the β phase of the polymer. The β phase is the most important phase in the polymer, as it is the phase that is most responsible for the mechanical properties of the polymer. The β phase is the phase that is most responsible for the mechanical properties of the polymer.

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© 2004 Blackwell Publishing Ltd *Journal of Internal Medicine* 255: 111–118

OFF et al., A Review of 03-1997, Health Affairs, Vol. 16, No. 1

FAJKOWSKI, Andrzej / 05-1999 / 104 (1999) / 104-112 / 104

store and collision information from the periodic scans.

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Off et al (US 5,612,868) in view of Fajkowski (US 5,905,246).

As per claim 1, Off et al teach:

"at least one incentive printer" (see figure 1, item 24);

"a point-of sale (POS) controller" (see figure 1, item 10);

"at least one cash register" (see figure 1, item 12);

"a point-of-sale (POS) Bus (see figure 1);

"a retailer host computer (16) coupled to a store controller (10) through the POS bus and the host computer controls communication with all store controllers in the retailer's various store, and is responsible for generating various accounting reports.

The retailer host computer has an associated data base of various files relating to the retailer's entire store operation" (see column 3, lines 39-47, and item 16 of figure 1);

Off et al fail to teach "an incentive processor for storing a plurality of purchasing incentives corresponding to a plurality of item identifiers for items subject to raincheck".

Fajkowski teaches:

"an incentive processor for storing a plurality of purchasing incentives corresponding to a plurality of item identifiers for items subject to rainchecks" (see column 4, lines 64-67 – column 5, lines 1-13; item 200 of figure 1);

"an incentive processor or server (200) networked to all periphery devices in the store and compiling information from the peripheries concerning what coupons have

been redeemed. Using this information, a program in the server may generate detailed reports such as total amount of each manufacturer's coupons redeemed, the number of inappropriate coupons redeemed by overridden and the number of coupons overridden by each cashier. The server can organize the information on redeemed coupons in any number of ways to accommodate the special needs of the particular store. Additionally, the server will transfer to the periphery device information that is intended for eventual loading by the periphery device onto coupon cards (e.g., information on future coupons or coupons for immediate use)" (see column 4, lines 64-67 – column 5, lines 1-14);

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to connect the server (200) of Fajkowski to Off et al, networking it to all store POS controller, cash register and peripheral devices through the POS bus. Fajkowski server (200) is performing similar functions as Off et al host computer (16). Adding the server (200) of Fajkowski to Off et al would be an obvious feature.

Off et al fail to teach "an incentive processor bus coupling said incentive processor to said at least one incentive printer".

Fajkowski teaches:

"an incentive processor" (see item 200 of figure 1);

"the incentive processor or server (200) may be networked to all periphery devices in the store and compile information from the peripheries concerning what coupons have been redeemed. Using this information, a program in the server may generate detailed reports for the store management" (see column 4, lines 64-67);

column 5, lines 1-3). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to connect the incentive processor (200) of Fajkowski to Off et al through the POS bus that can also function as the incentive processor bus, where all peripherals are networked to each other. The server (200) of Fajkowski performs similar functions as the host computer (16) of Off et al. Networking the server (200) to Off et al would be an obvious result. Official notice is taken that it is old and well known in the computer art that anything saved to a computer or device memory can be printed. As lines 23-29 of column 6 of Fajkowski teach, "conventional system transfer the coupon information to a printer to produce a printed paper coupon. The adapter of the Fajkowski invention avoids any need for paper by transmitting the coupon directly to the coupon card". And as lines 9-14 of column 5 of Fajkowski teach, "the server (200) will transfer to the periphery device information that is needed for eventual loading by the periphery device onto coupons cards (e.g., information on future coupons or coupons for immediate use)". Also lines 65-67 of column 24 and lines 1-66 of column 25 show that the server (200) has coupons and rebates that are stored in its database and are, therefore, accessible to periphery devices. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to install a printer to the server (200) and print coupons, this printer being the incentive printer. Also, the applicant has not disclosed that the physical location of the printer connected to the server (200) provides an advantage, is used for a particular purpose, or solves a stated problem. A person of ordinary skill in the art, furthermore, would have expected the Applicant's invention to perform equally well with either the printer directly

connected to the server or in another location, as long as the server and the printer can communicate to each other. If a particular server and printer can see each other, it would be obvious that a bus can connect them and that the bus can be called the incentive processor bus.

Off et al fail to teach "a POS bus coupling said POS controller, said at least one cash register, and said incentive processor". Fajkowski teaches "an incentive processor" (see item 200 of figure 1). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to connect the incentive processor (200) of Fajkowski to the Off et al system because the server (200) of Fajkowski is performing similar functions as the host computer (16) of Off et al.

Off et al teach:

"wherein a respective cash register of said at least one cash register is configured to receive data defining an item identifier for an item that is subject to a coupon discount" (see column 4, lines 30-37);

"a coupon look-up file that includes two types of record, a coupon index record and the coupon deal record. The flag field of the coupon deal record contains only three meaningful bits of information. When bit 5 is set, the expiration date indicates the number of days beyond the printing date that the coupon is to remain valid. If bit 5 is not set, the expiration date indicates the number of days beyond a preselected reference date that the coupon is to remain valid." (see column 6, lines 25-35);

register to said POS controller to receive data defining an item identifier for an item that is subject to said discount over said POS bus to said incentive

Off et al fail to teach "wherein a respective cash register of said at least one cash register is configured to receive data defining an item identifier for an item that is subject to a raincheck".

Fajkowski teaches "wherein a respective cash register of said at least one cash register is configured to receive data defining an item identifier for an item that is subject to a raincheck" (see column 15 lines 17-27; column 20 lines 34-67; column 21, lines 1-34 and 67). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add the feature of rainchecking coupons to Off et al. Rainchecking a coupon occurs when an item covered by a coupon is out of stock and the coupon will expire before the store can restock the item. Rainchecking allows the customers to use the coupon after its expiration date. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add a raincheck mark or flag to the coupons of the Off et al system as lines 39-46 of column 20 of Fajkowski shows. This raincheck marker of Fajkowski would override the flag bit 5 of Off et al, allowing the customer to use the coupon after its expiration date.

Off et al teach "one of said POS controller (10) and said respective cash register (12) is configured to transmit said data defining said item identifier for said item that is subject to a coupon discount over said POS bus to a host computer (16)" (see column 3, lines 39-47).

Off et al fail to teach "one of said POS controller and said respective cash register is configured to transmit said data defining said item identifier for said item that is subject to said raincheck over said POS bus to said incentive processor".

Fajkowski teaches:

"an incentive processor or server (200) networked to all periphery devices in the store and compiling information from the peripheries concerning what coupons have been redeemed. Using this information, a program in the server may generate detailed reports such as total amount of each manufacturer's coupons redeemed, the number of inappropriate coupons redeemed by overridden and the number of coupons overridden by each cashier. The server can organize the information on redeemed coupons in any number of ways to accommodate the special needs of the particular store." (see column 4, lines 64-67 – column 5, lines 1-14 and column 22, lines 31-35). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add the incentive processor (200) of Fajkowski to Off et al because the server (200) performs a similar function as the host computer (16) of Off et al, as lines 39-47 of column 3 of Off et al show. And as explained before rainchecking a coupon is accomplished by putting a marker to the coupon, as lines 34-66 of column 20 of Fajkowski show. Thus, modifying Off et al to raincheck coupons as Fajkowski does would be obvious. Although Fajkowski puts a raincheck mark to a coupon that is stored in a coupon card or smart card, official notice is taken that it is old and well known in the computer art that anything that can be saved in a computer or processor memory can be printed. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to print the raincheck that is stored in the smart card so that the client can have a paper copy of the raincheck.

Off et al fail to teach: raincheck information to a respective incentive printer of

"said incentive processor is configured to generate raincheck information including at least one purchasing incentive in response to receipt of said data defining said item identifier for said item subject to said raincheck, said plurality incentives, and said plurality of item identifiers";

"said incentive processor is configured to transmit said raincheck information to a respective incentive printer of said at least one incentive printer over said incentive processor bus and said respective incentive printer is configured to print a raincheck including said at least one purchasing incentive in response to receipt of said raincheck information received from said incentive processor."

Fajkowski teaches "said incentive processor is configured to generate raincheck information including at least one purchasing incentive in response to receipt of said data defining said item identifier for said item subject to said raincheck, said plurality incentives, and said plurality of item identifiers" (see column 5, lines 9-14; column 20, lines 34-66; column 22, lines 18-60). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add the raincheck feature of Fajkowski to Off et al. As explained before, adding the incentive processor (200) of Fajkowski to Off et al would be advantageous and adding the capability of Fajkowski of generating rainchecks to Off et would be a good business strategy. The clients would not have to worry if the item is out of stock and the coupon is soon to expire.

Fajkowski fails to teach "said incentive processor is configured to transmit said raincheck information to a respective incentive printer of said at least one incentive processor

printer over said incentive processor bus and said respective incentive printer is configured to print a raincheck including said at least one purchasing incentive in response to receipt of said raincheck information received from said incentive processor". Official notice is taken that it is old and well known in the computer art that anything saved to a computer or device memory can be printed. As lines 23-29 of column 6 of Fajkowski teach "conventional system transfer the coupon information to a printer to produce a printed paper coupon. The adapter of the Fajkowski invention avoids any need for paper by transmitting the coupon directly to the coupon card". And as lines 9-14 of column 5 of Fajkowski teach, "the server (200) will transfer to the periphery device information that is needed for eventual loading by the periphery device onto coupons cards (e.g., information on future coupons or coupons for immediate use)". Also lines 65-67 of column 24 and lines 1-66 of column 25 show that the server (200) has coupons and rebates store in its database and therefore accessible to periphery devices. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to install a printer to the server (200) and print coupons, this printer being the incentive printer. Also, the applicant has not disclosed that the physical location of the printer connected to the server (200) provides an advantage, is used for a particular purpose, or solves a stated problem. A person of ordinary skill in the art, furthermore, would have expected the Applicant's invention to perform equally well with either the printer directly connected to the server or in another location, as long as the server and the printer can communicate with each other. If a particular server and printer can communicate with each other, it would be obvious that

a bus can connect them and that the bus can be called the incentive processor bus between that printer and server.

As per claim 2,

Off et al fail to teach:

"a retailer site configured to identify said plurality of purchasing incentives corresponding to said plurality of item identifiers";

"an incentive processing site";

"wherein said retailer site configured to transmit said plurality of purchasing incentives corresponding to said plurality of item identifiers to said incentive processing site";

"said incentive processing site is configured to receive said plurality of purchasing incentives corresponding to said plurality of item identifiers from said retailer site"; and

"said incentive processing site is configured to store said plurality of purchasing incentives corresponding to said plurality of item identifiers via said incentive processor"

Fajkowski shows:

"a retailer site configured to identify said plurality of purchasing incentives corresponding to said plurality of item identifiers" (see column 22, lines 49-62);

"an incentive processing site" (column 23, lines 49-59; column 24, lines 54-67 – column 25, lines 1-51 and item 300 of figure-1);

"wherein said retailer site configured to transmit said plurality of purchasing incentives corresponding to said plurality of item identifiers to said incentive processing site";

site" (column 23, lines 49-59; column 24, lines 54-67 – column 25, lines 1-51 and item 300 of figure 1);

"said incentive processing site is configured to receive said plurality of purchasing incentives corresponding to said plurality of item identifiers from said retailer site" (column 23, lines 49-59; column 24, lines 54-67 – column 25, lines 1-51 and item 300 of figure 1);

"said incentive processing site is configured to store said plurality of purchasing incentives corresponding to said plurality of item identifiers via said incentive processor" (column 23, lines 49-59; column 24, lines 54-67 – column 25, lines 1-51 and item 300 of figure 1).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add the feature of an incentive processing site of Fajkowski to Off et al. As explained before, upon adding the server (200) to the POS bus of Off et al, the incentive processing site (300) can also be added as a obvious feature to Off et al because as Fajkowski shows, clearinghouse (300) is connected to server (200). This feature would be an improvement to the Off et al system because the retailers and manufacturers can changed the value of coupons and offer rebates in a more efficient way as lines 36-56 of column 25 of Fajkowski show.

As per claim 3, Off et al fail to teach

"one of said retailer site is and said incentive processing site is configured to generate a raincheck list including a description of items corresponding to said plurality of item identifiers along with said plurality of item identifiers"; in the value of the coupon, the

"said respective cash register of said at least one cash register is configured to receive said data defining said item identifier for an item that is subject to a raincheck based on said raincheck list."

Fajkowski shows:

"one of said retailer site is and said incentive processing site is configured to generate a raincheck list including a description of items corresponding to said plurality of item identifiers along with said plurality of item identifiers (column 20, lines 34-67- column 21 and column 22; column 23, lines 49-59; column 24, lines 54-54-67 - column 25, lines 1-51). Fajkowski does not explicitly disclose the feature of retailer site generating a raincheck list. However, this feature is deemed to be inherent to Fajkowski as lines 36-62 of column 25 show that "...a manufacturer can rapidly respond to redemption rates and market feedback and reuse the coupons by increasing its value nationally, regionally, or in a more specific locale. If the manufacturer wishes to increase the coupon's value, clearinghouse (300) will, on instructions from the manufacturer, create a new bar code and new redemption requirement data showing an increased value for the coupon's redemption. This new bar code and redemption requirement data is then transmitted to periphery devices by server (200) along with other redemption requirement data for future coupons. When a coupon card is placed in periphery device the original bar code of the coupon which is to be increased in value will be located and the new bar code along with the new redemption requirement data will replace the previous bar code and redemption requirement data. To make the coupon-card user aware of the increase in the value of the coupon, the coupon record will contain a

marker..." If the retailer can mark coupons that are going to increase in value, marking coupons for a list of items that are out of stock with a raincheck would be an obvious feature as lines 34-66 of column 20 of Fajkowski show:

"Said respective cash register of said at least one cash register is configured to receive said data defining said item identifier for an item that is subject to a raincheck based on said raincheck list" (see column 20, lines 34-67, -column 21, lines 1-67).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Off et al to accept rainchecks coupons.

As per claim 4, Off et al fail to teach:

"said incentive processor configured to store a printed raincheck list comprising a list of when rainchecks were printed and item identifiers corresponding thereto";

"said incentive processing site is configured to generate a weekly report of printed rainchecks and item identifiers corresponding thereto based on said printed raincheck list";

Fajkowski shows:

"said incentive processor configured to store a printed raincheck list comprising a list of when rainchecks were printed and item identifiers corresponding thereto" (see column 22, lines 18-48);

"said incentive processing site is configured to generate a weekly report of printed rainchecks and item identifiers corresponding thereto based on said printed raincheck list" (see column 22, lines 28-48);
item was subject to said raincheck" (see column 20, line 34-36)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add the incentive processor of Fajkowski to Off et al and to store the data and generate reports such as total coupon redemptions that day, total redemption sum per manufacturer, total redemption sums per cash register and detailed information on overrides, like rainchecks.

As per claim 5, Off et al fail to teach:

"said at least one purchasing incentive comprises one of a token and a discount coupon";

"said token enabling a customer to purchase said item subject to said raincheck when said item is in stock and at a price when said item was subject to said raincheck";

"said discount coupon enabling a customer to purchase said item subject to said raincheck when said item is in stock and at a price discounted from said price when said item was subject to said raincheck";

Fajkowski shows:

"said at least one purchasing incentive comprises one of a token and a discount coupon" (see column 20, line 34-38);

"said token enabling a customer to purchase said item subject to said raincheck when said item is in stock and at a price when said item was subject to said raincheck" (see column 20, line 34-38);

"said discount coupon enabling a customer to purchase said item subject to said raincheck when said item is in stock and at a price discounted from said price when said item was subject to said raincheck" (see column 20, line 34-38);

Fajkowski does not explicitly disclose the feature that the raincheck would be a discount coupon or a token. However, this feature is deemed to be inherent because in the retail business when a customer discovers that a desired item is out of stock, the retailer often provides the customer with a raincheck, which is essentially a certificate, be a token or a discount coupon, granting the customer a guarantee that the out of stock item may be purchased later at the current price. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add the raincheck feature of Fajkowski to Off et al, allowing customers to use a discount coupon after its expiration date.

As per claim 6, it has the same limitations as claim 5, therefore the same rejection applies.

As per claims 7-8, Off et al fail to teach:

"said item subject to said raincheck when said item is not in stock";

Fajkowski shows:

"said item subject to said raincheck when said item is not in stock" (see column 20, lines 34-38);

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement the raincheck feature of Fajkowski to Off et al.

As per claims 9-16, they are written in process format and contain the same limitations as claims 1-8, therefore the same rejections apply:

coupled thereto as in the claimed invention. The reasoner

As per claims 17-24, they are written as a computer program and contain the same limitations as claims 1-8, therefore the same rejections apply.

As per claims 25-32, they are written in means format and contain the same limitations as claims 1-8, therefore the same rejections apply.

(11) Response to Argument

The Appellant submits that Off et al fail to teach or suggest an incentive processor, an incentive printer coupled to the incentive processor via an incentive processor bus, a POS controller coupled to the incentive processor via a POS bus, and a cash register coupled to the POS controller via the POS bus, as recited in the claimed invention. The Appellant notes that the present Office Action asserts that Off et al teach the claimed POS bus citing Figure 1 of Off et al. However, the Appellant notes that the only element in Figure 1 of Off et al that may be arguably considered to be buses is line 18, which may be a telephone line or the connections between the store controller 10 and the terminals 12. The Appellant submits that even if line 18 was considered a POS bus, Off et al would still fail to teach or suggest a cash register coupled thereto, as in the claimed invention, since the terminal 12, which may arguably be considered to correspond to the claimed cash register, is coupled to the store controller 10 and not to line 18. Similarly, the printer 24 of Off et al is coupled to the terminal 12 and not to an incentive processor, as in the claimed invention. In addition, even if the connections between the store controller 10 and the terminals 12 were considered a POS bus, the applicant argues that Off et al would still fail to teach or suggest an incentive processor coupled thereto, as in the claimed invention. The reason, according to the Appellant, is Office Act

that since the host computer 16, which is argued to be considered to correspond to the claimed incentive processor based on the teachings of Fajkowski, is coupled to the store controller 10 and not to the connections between the store controller 10 and the terminal 12. Furthermore, the printer 24 of Off et al is coupled to the terminal 12 and not to an incentive processor, as in the claimed invention. Accordingly, the Appellant submits that neither line 18 connection between the host computer 16 and the store controller 10 nor the connections between the store controller 10 and the terminal 12 of Off et al teach or suggest the POS bus, as in the claimed invention.

The Examiner answers that figure 1 of Off et al teaches a POS system where all the elements are connected by a common bus and can communicate with each other. Therefore, even though line 18 is not shown in the figure directly connected to terminal 12, it is indeed connected. Line 18 connects to the store controller (10) and the store controller (10) connects to the terminal 12. Similarly, the printer (24) is connected to terminal 12, the terminal 12 is connected to the store controller (10), and the store controller (10) is connected to the Incentive Processor (16). Therefore, the POS bus would be the line that connects the Host Computer 16, terminals 12, databases 14 and store controller 10. Although Figure 1 only shows the printer 24 connected to terminal 12, it does not mean that the printer is isolated from the other devices. Figure 1 teaches a POS network where peripheral devices are connected (networked) to each other.

The Appellant submits that Fajkowski merely teaches a server 200 that may be used for coupon processing for implementing a paperless coupon system, but fails to cure the noted deficiencies in Off et al. The present Office Action asserts that it would

have been obvious to include the server 200 of Fajkowski in the invention of Off et al to arrive at the claimed incentive processor. However, the Appellant mentions that, neither the line 18 connection between the host computer 16 and the store controller 10 nor the connections between the store controller 10 and the terminal 12 of Off et al teach or suggest the POS bus, as in the claimed invention. Accordingly, even if such modification were obvious, which Appellant claims is not the case, the system of Off et al as modified by Fajkowski would still fail to teach or suggest the noted features of the claimed invention.

The Examiner answers that the server 200 of Fajkowski would be connected to the POS bus that connects the Host Computer 16, Store Controller 10, terminal 12 and database 14. Adding the Fajkowski server to the Off et al invention would add the raincheck feature that Off et al system lacks. It is true that neither the line 18 connection between the host computer 16 and the store controller 10 nor the connections between the store controller 10 and the terminals 12 are the POS bus. The POS bus would be the common line or bus that connects all devices together. The applicant appears to be analyzing figure 1 literally without looking at the concept it teaches.

In addition, the Appellant claims that since Off et al system includes a store controller 10 for coupon processing, a person of ordinary skill in the art would not be motivated to modify this system to include the server 200 of Fajkowski in order to arrive at the claimed incentive processor. Further, the Appellant claims that since the Off et al system includes a printer 24 for coupon printing, a person of ordinary skill in the art would not be motivated to modify this system to include the server 200 of Fajkowski

coupled to an incentive printer via an incentive processor bus in order to arrive at the claimed invention.

The Examiner answers that including the server 200 of Fajkowski to the Off et al invention would add the raincheck feature that the Off et al system lacks. And connecting the Fajkowski server 200 to the POS bus of the Off et al invention would be an obvious feature as the server 200 is performing similar functions as the Host computer 16. For example, Off et al Host Computer 16 controls communications with all store controllers in the retailer's various stores, and is responsible for generating various accounting reports (see column 3, lines 39-47). The Fajkowski server 200 would be networked to all the periphery devices in the store and would compile information from the peripheries concerning what coupons have been redeemed. Using this information, a program in the server would generate detailed reports for the store management concerning factors such as the total amount of each manufacturer's coupons redeemed (i.e. the amount the manufacturer should reimburse the retailer), the number of inappropriate coupons redeemed by overriding, and the number of coupons overridden by each cashier (see column 4, lines 64-67 = column 5, lines 1-14). The Fajkowski invention also includes a coupon dispenser where a coupon could be printed in hard copy form (see column 27, lines 56-65). Therefore, even though the Fajkowski invention is geared towards a paperless coupon system, it does have the capabilities of printing coupons in hard copy form. It would have been obvious to connect the server 200 to the Off et al invention.

Claim 1. The Applicant's argument that the combination of Fajkowski to Off et al is suggested in the Official Action, is

The Appellant mentions that since Fajkowski is directed to a system for implementing a paperless coupon system, a person of ordinary skill in the art would not be motivated to modify Off et al system to include printing of rainchecks based on the teaching to the contrary in Fajkowski. The Examiner answers that even though Fajkowski is directed towards implementing a paperless coupon system, it does have the capabilities to print coupons in hard copy form (see column 27, lines 56-65). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Fajkowski would print the raincheck coupon in hard copy form.

The Appellant argues that Off et al teach that the means for generating the coupon is without any intervention of the customer and that Off et al do not teach a customer card or other means for customer identification. The Appellant argues that to combine with Off et al the incentive processor of Fajkowski would now require the intervention by the customer, in participating in the coupon selection and raincheck generation process, rendering Off et al unsatisfactory for its intended purpose.

The Examiner answers that the Fajkowski system would use the point of sale system described in Off et al to implement its coupon selection and raincheck generation process.

a. Group 1 – Claims 1, 9, 17 and 25

The Appellant argues that Off et al reference do not disclose the features defined in Claim 1. The Appellant further argues that adding the proposed incentive processor of Fajkowski to Off et al, as suggested in the Official Action, is not suggested by Off et al.

or Fajkowski and will require user participation, thus rendering Off et al unsatisfactory for its intended purpose.

With respect to these arguments, the Examiner answers that the responses stated in the preceding arguments as stated in claim 1 rejection in section 11 applies. The Fajkowski system would use the point of sale system described in Off et al to implement its coupon selection and raincheck generation process.

b. Group 2 – Claims 2, 10, 18 and 26

The Appellant argues that the Official Action acknowledges that Off et al reference do not teach a retailer site configured to identify the plurality of purchasing incentives corresponding to the plurality of item identifiers, as defined in Claim 2. Moreover, adding the proposed incentive processor of Fajkowski which contains a clearinghouse to Off et al is not suggested by Off et al or Fajkowski and will require user participation, thus rendering Off et al unsatisfactory for its intended purpose.

With respect to these arguments, the Examiner answers that the responses stated in the preceding arguments as stated in claim 2 rejection in section 11 applies. The Fajkowski system would use the point of sale system described in Off et al to implement its coupon selection and raincheck generation process.

c. Group 3 – Claims 3, 11, 19 and 27

The Appellant argues that the Official Action acknowledges that Off et al reference does not teach one of the retailer site and the incentive processing site is configured to generate a raincheck list including a description of items corresponding to the plurality of item identifiers along with the plurality of item identifiers, and the respective cash

register of the at least one cash register is configured to receive the data defining the item identifier for an item that is subject to a raincheck based on the raincheck list, as defined in Claim 3. The Appellant further argues that adding the proposed incentive processor of Fajkowski which contains a clearinghouse 300 to Off et al, as suggested in the Official Action, is not suggested by Off et al or Fajkowski and will require user participation, thus rendering Off et al unsatisfactory for its intended purpose.

With respect to these arguments, the Examiner answers that the responses stated in the preceding arguments as stated in claim 3 rejection in section 11 applies. The Fajkowski system would use the point of sale system described in Off et al to implement its coupon selection and raincheck generation process.

d. Group 4 – Claims 4, 12, 20 and 28

The Appellant argues that the Official Action acknowledges that Off et al reference do not teach that the incentive processor is configured to store a printed raincheck list comprising a list of when rainchecks were printed and item identifiers corresponding thereto, and the incentive processing site is configured to generate a weekly report of printed rainchecks and item identifiers corresponding thereto based on the printed raincheck list, as defined in Claim 4. The Appellant further argues that adding the proposed incentive processor of Fajkowski to Off et al is not suggested by Off et al or Fajkowski and will require user participation, thus rendering Off et al unsatisfactory for its intended purpose.

With respect to these arguments, the Examiner answers that the responses stated in the preceding arguments as stated in claim 4 rejection in section 11 applies.

The Fajkowski system would use the point of sale system described in Off et al to implement its coupon selection and raincheck generation process.

Group 5 – Claims 5, 13, 21 and 29

The Appellant argues that the Official Action acknowledges that Off et al reference does not teach that the at least one purchasing incentive comprises one of a token and a discount coupon, the token enabling a customer to purchase the item subject to the raincheck when the item is in stock and at a price when the item was subject to the raincheck; and the discount coupon enabling a customer to purchase the item subject to the raincheck when the item is in stock and at a discounted price, as defined in Claim 5. The Appellant further argues that the Official Action acknowledges that Fajkowski does not teach explicitly that the raincheck would be a discount coupon or a token. Therefore, the Appellant argues that a combination of Off and Fajkowski is improper.

With respect to these arguments, the Examiner answers that the responses not add, stated in the preceding arguments as stated in claim 5 rejection in section 11 applies. The Fajkowski system would use the point of sale system described in Off et al to implement its coupon selection and raincheck generation process.

f. Group 6 – Claims 6, 14, 22 and 30

The Appellant argues that the Official Action acknowledges that Off et al reference does not teach that the at least one purchasing incentive comprises one of a token and a discount coupon, the token enabling a customer to purchase the item subject to the raincheck when the item is in stock and at a price when the item was

subject to the raincheck; and the discount coupon enabling a customer to purchase the item subject to the raincheck when the item is in stock and at a discounted price, as defined in Claim 6. The Appellant further argues that the Official Action acknowledges that Fajkowski does not teach explicitly that the raincheck would be a discount coupon or a token. Therefore, the Appellant argues that a combination of Off et al and Fajkowski is improper.

With respect to these arguments, the Examiner answers that the responses stated in the preceding arguments as stated in claim 6 rejection in section 11 applies. The Fajkowski system would use the point of sale system described in Off et al to implement its coupon selection and raincheck generation process.

g. Group 7 – Claims 7, 15, 23 and 31

The Appellant argues the Official Action acknowledges that Off et al reference does not teach that the item is subject to the raincheck when the item is not in stock, as defined in Claim 7. The Appellant further argues that adding the proposed incentive processor of Fajkowski to Off et al is not suggested by Off et al or Fajkowski and will require user participation, thus rendering Off et al unsatisfactory for its intended purpose.

With respect to these arguments, the Examiner answers that the responses stated in the preceding arguments as stated in claim 7 rejection in section 11 applies. The Fajkowski system would use the point of sale system described in Off et al to implement its coupon selection and raincheck generation process.

h. Group 8 – Claims 8, 16, 24 and 32

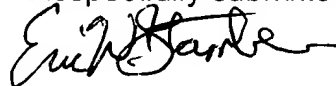
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The Appellant argues the Official Action acknowledges that Off et al reference does not teach that the item is subject to the raincheck when the item is not in stock, as defined in Claim 8. The Appellant further argues that adding the proposed incentive processor of Fajkowski to Off et al is not suggested by Off et al or Fajkowski and will require user participation, thus rendering Off et al unsatisfactory for its intended purpose.

With respect to these arguments, the Examiner answers that the responses stated in the preceding arguments as stated in claim 8 rejection in section 11 applies. The Fajkowski system would use the point of sale system described in Off et al to implement its coupon selection and raincheck generation process.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



ERIC W. STAMBER
PRIMARY EXAMINER



Daniel Lastra



Eric Stamber



James Myhre

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Conferees

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